

# Privatizing Peacekeeping: The Growing Prominence of Private Military Companies in Conflict and Crisis

Colonel Christopher T. Mayer, U.S. Army.

Chief of Staff

Defense Reconstruction Support Office  
The Pentagon, Washington, D.C., U.S.A.  
e-mail: Christopher.Mayer@wso.whs.mil

A convoy transporting reconstruction materials is moving south from Mosul in the Irbil province of Iraq. Before departing, the security detachment commander received an intelligence briefing that included enemy activity, friendly military and NGO activity, and information collected from the coalition military forces, Iraqi security forces, and civilian agencies in the area. About 25 minutes after crossing the start point, the lead vehicle is hit by an IED and insurgent small arms fire. The security detachment dismounts to recover the crew of the destroyed vehicle and lays down suppressive fire. The detachment leader contacts the local military operations center for help. The Ops Center is aware of the team's exact position through satellite tracking, and dispatches the quick reaction force, consisting of ground forces and attack aviation. Within 10 minutes, hostile positions are under air attack. Friendly elements are able to recover all personnel without injury and continue the mission. Typical small unit, low intensity combat? Not quite. In this case, up until the arrival of the QRF and air support, none of the players in this scenario were "regular" military forces. Instead, they belonged to a private military company contracted to provide security services for the US government reconstruction effort.

Private Military Companies are a growing and controversial addition to the increasingly complex battlespace of the 21<sup>st</sup> century. These companies provide services recently considered the exclusive domain of national armed forces. Their customers include emerging national governments and first world military establishments, multi-national corporations and – increasingly Humanitarian Relief Organizations. Their presence is not universally understood, appreciated, or accepted. Nonetheless, PMCs are a logical and perhaps necessary development of the post-cold war world. They offer significant opportunities and economies to governments and HROs alike. They also present serious risks to mission success for these same customers. This presentation will describe PMCs and their operational environment; outline the opportunities they offer and ideas to mitigate the associated risks<sup>1</sup>.

## DEFINITIONS

At the beginning, it is important to understand some frequently used terms regarding this subject. The terms themselves are sometimes contentious, even among these military contractors, and the meanings ascribed to these terms here may not be the same as those used elsewhere.

- Mercenary: The most common, and perhaps best known definition is, “a soldier hired into foreign service.”<sup>ii</sup> More important to our understanding of PMCs and their legitimate roles is the term as it is used in international law. The third protocol to the Geneva Convention (1977), UN General Assembly Resolution 44/34 (1989), and the Convention of the Organization of African States (OAU) for the Elimination of Mercenarism in Africa (1985) all use the same definition: Summarized, it defines a mercenary as a person who fights in a conflict for compensation substantially greater than that made by regular soldiers; is not a national of the state in which the conflict is fought nor a citizen of one of the parties to the conflict; and is not himself a member of the armed forces of a party to the conflict.<sup>iii</sup> As one writer has remarked, “Any mercenary who cannot exclude himself from the definition deserves to be shot, and his lawyer with him.” Nonetheless, a PMC – and its employer – must keep these specifications in mind to remain in compliance with international law.
- Private Military Companies (PMC): As used here, a Private Military Company is a corporation specializing in providing military skills to legitimate governments<sup>iv</sup>. These skills include tactical combat operations, planning, training, collection and analysis of intelligence, operational support, and technical support.<sup>v</sup> A company does not have to offer ALL of these services to be a PMC. It is a general category that encompasses firms that offer one or more of these services. This definition is well grounded in the current literature and government debate. However, this definition is not universally accepted, even within the industry itself. Some writers insist that the only true PMCs are those that offer direct combat. Some industry representatives insist that the category of PMC excludes those companies offering armed personnel. or support. Few companies identify themselves as Private Military Companies, preferring names such as Military Service Providers, Security Consulting Company, Security Risk Management Company, Professional Services Company and so on. Whatever they call themselves, they still fit under the umbrella definition of Private Military Company used here.
- Private Security Company (PSC): Most of the companies performing armed protective services in Iraq prefer the term “Private Security Company.” According to the previous definition, PSCs are a subcomponent of PMC. In this paper, the term PSC will be used to refer to companies and protective operations in Iraq at the time this is written.
- Humanitarian Relief Organization (HRO): A group that provides or supports relief assistance to mortally endangered populations. Humanitarian Relief Organizations includes all organizations usually referred to as Non-Governmental Organizations (NGO), Private Volunteer Organizations (PVO), many International Organizations (IO), and so on.
- Complex Contingency: Any military operation (other than large scale combat) executed in conjunction with a humanitarian assistance operation.

- Principles of MOOTW. This definition is from Joint US Military doctrine<sup>vi</sup>. This article uses this list as a construct for analyzing PMC employment.
  - > *Objective*: Direct every military operation towards a clearly defined, decisive and obtainable objective.
  - > *Unity of Effort*: Seek unity of effort in every operation.
  - > *Security*: Never permit hostile factions to acquire an unexpected advantage.
  - > *Restraint*: Apply appropriate military capability prudently.
  - > *Perseverance*: Prepare for the measured, protracted application of military capability in support of strategic goals.
  - > *Legitimacy*: Sustain the willing acceptance by the people of the right of the government to govern or agency to make and carry out decisions.

## HISTORY

For Hire” military capabilities have been a fixture of military operations since the beginning of recorded history. For most of that history, they provided a technically proficient resource a sovereign could use in war to provide a capability not normally inherent to pre-industrial armies. These capabilities included slingers, archers, light cavalry, and artillery. Use of these hired specialists allowed the military commander to concentrate his own soldiery into his main battle force.

Not infrequently, force enhancement included hiring mercenary officers for command, staff, or training. The experience of the American Revolution provides examples of this last function in persons such as Lafayette, von Steuben, and Pulaski. With the Napoleonic wars and the second industrial revolution the State acquired a near total monopoly on force, and the widespread use of mercenaries almost disappeared along with other forms of COB.<sup>vii</sup>

## PRESENT PRESENCE

Today, PMCs perform functions where regular military forces are not available, are not economical, or may not be suitable. In the first category, PMCs may be contracted to perform military services in a nation where there are no functioning regular armed forces. The host country may not have a professional force of its own or the international community may be slow or reluctant to commit its troops. Recent crises in central Africa, notably in Rwanda and Sierra Leone are vivid examples. Here, the most immediate need for a PMC may be in the operational role. This includes the training and organizational skills needed by that country to stand up its own security capability, and may involve combat operations, usually as officers, non-commissioned officers, or tactical advisers.

The second category, where regular forces are not economical, is where we see the greatest use of PMCs today. Modern, information age, regular armed forces are so expensive to raise, equip, transport, and maintain that there are few resources left for critical, yet secondary tasks. Such tasks include logistic support, administrative duties, security, and even training the armed forces of the sending states. In these cases it may be more economical, at least in a long-term analysis, to contract out many of these functions.

Finally, regular military forces may not be suitable for a specific mission or contingency. In many disaster relief operations, in many parts of the world, the presence of uniformed military may be counterproductive to mission success. Foreign military forces may be seen as a threat to the sovereignty of the affected nation. In other cases, military protection could present the relief activity as a valid or high-payoff target for insurgents or terrorists.

### **PMCS AS AN ECONOMY OF FORCE**

Effective use of PMCs enables regular armed forces to focus on combat and critical combat support functions. The most visible tasks in this economy of force role include security for logistics, supplies, and the personnel and facilities associated with them. Specific tasks include convoy escort, protective security details for key personnel, and security escort. In Iraq, PSCs provide Protective Security Details for key DoD officials and certain general officers. The reconstruction warehouse is guarded by a PSC, and logistics convoys supplying reconstruction and equipping the Iraqi security forces are escorted by PSCs.

Staff augmentation is another economy of force opportunity. Today you can find PMCs coordinating and tracking convoy movement, developing plans, tracking current operations, and developing intelligence products for coalition forces. In Iraq, the Reconstruction Operations Center is responsible for coordinating and tracking reconstruction projects of the US Department of Defense, the State Department, and projects initiated by tactical commanders. Its responsibilities include tracking the logistics convoys necessary to supply these efforts and that support the rebuilding and refitting of Iraqi Security forces. March credits are requested, convoys are tracked, and coordination is made with the combat forces, to include – when necessary – deployment of military quick reaction forces and casualty evacuation. All of these tasks are performed by private contractors in the operations center. Such staff augmentation could be even more valuable if we are talking about augmenting host nation military staffs. The lower profile of the PMCs can be helpful here, providing valuable assistance and training without making it look like the host nation's military HQ is being run by foreign military power.

This economy of force extends to support of the Theater Engagement Strategy. PMCs can provide very experienced personnel to provide a variety of military training. PMCs can call upon personnel with years of experience as professional trainers for NATO and other western armies. Many of these personnel have prior experience training or working with foreign militaries, often in that same area of the world. PMCs routinely access retired officers from NATO; many are War College graduates with Joint Staff and coalition staff experience. The potential to use PMC contractors in this role reduces the requirement to senior officers and non-commissioned officers from the active force structure of US or other NATO armed forces. In turn, this alleviates the stress on the operational units and staffs from which these experienced leaders and staff officers are drawn.

## **SUPPORT FOR CIVIL AFFAIRS**

A new role for PMCs is to augment civil affairs operations. Given the nature of complex contingencies, as well as their proliferation, we simply do not have enough qualified civil affairs specialists available to our regular military forces. Civil-Military-Operations is not just one more tool in the infantryman's toolkit. Civil Affairs is a technical skill, require a specific mind set, specialized training, and – in many cases – background experience that is not generally available among career soldiers. Many Private Military Companies have demonstrated an ability to recruit former officers and non-commissioned officers from the special operations forces of NATO and other western armed forces. These personnel are trained in cultural awareness and the importance of developing personal contacts within the community. Because these contractors are not members of the regular armed forces, they operate with a lower profile than regular soldiers.

There has been some absolutely stunning success in the Civil Affairs arena using PMCs in Iraq. One company in particular has a very aggressive Civil Affairs program, focused on winning the support of the local population for the coalition's reconstruction effort. CA projects undertaken by this company include providing books and school supplies, a vaccination program and other public health projects, food distribution, and coordination with humanitarian relief organizations. In efforts like this, PMCs are not limited to the military supply chain for these "Class X" supplies. For example, this same company has orchestrated a civilian donations program to support their efforts.

## **SUPPORT FOR HUMANITARIAN RELIEF**

The definition of PMC, given above, states that PMCs are "employed by legitimate governments." In fact, legitimate employment of PMCs is moving outside of this narrow limitation, as some internationally recognized Humanitarian Relief Organizations now employ these same corporations to meet their specific needs. Few can deny the right or the necessity of NGOs, PVOs and relief activities of various International Organizations to operate in a complex contingency. Military and political success will probably depend, in some measure, on the success of these organizations.

Many of the capabilities PMCs bring to the military commander are equally applicable to Humanitarian Relief Organizations. Presently, these PMC operations are most visible, once again, in the area of direct protection. Some HROs recognize that they can no longer assume the goodwill of all those they seek to help. At the same time, they cannot always rely on host nation security forces or foreign armed forces. This protection may not be available or may not even be desirable. Many HROs to maintain a position of neutrality in a complex contingency environment, as a result, they may prefer to keep physical, as well as political distance between themselves and any regular military forces operating in the area. This includes "blue helmet" UN peacekeepers. In addition to making an HRO's political neutrality ambiguous, the nearby presence of regular troops can make the HRO activity into a legitimate military target. This leaves HRO managers and directors with the choice of abandoning the field or finding some other method to provide security for their workers and volunteers. As a result, some of these organizations find themselves contracting with a PMC.

Direct protection, such as guards and protective security details, is the most visible, but certainly not the only function a PMC can offer to an HRO. One area that is not so visible, yet critical to the success of an HRO and the survival of their personnel is intelligence. The intelligence produced by military forces is generally not available to HROs. Even if it were, the information military intelligence produces is focused on specific military requirements and rarely meets the specific needs of the HRO. However, several PMCs have excellent “in house” intelligence production capabilities. Such capabilities could be contracted for by an HRO. Relevant intelligence information could include disaster assessments, road and bridge conditions, activity of hostile faction that could affect HRO operations, weather and environmental impacts, movements and encampments of dislocated persons, profiles of key local leaders, and so on. In the end, the capabilities provided are only limited by HRO information requirements. In fact, this intelligence capability offers the potential to have a synergistic effect on HRO responsiveness and effectiveness.

The Civil Affairs tasks I mentioned above apply just as well to HROs – if not more so. In addition to the low profile advantages described above (neutrality and avoidance of becoming a military target), PMCs liaison teams may be particularly useful in enabling contacts with civic leaders that who not want to be associated with the military. This low profile has another advantage. It enables the HROs to effect coordination and exchange information with coalition forces through their security contractors. This avoids appearance of direct partnership with the military forces of either the host nation or intervening forces, while maintaining the advantages of cooperation. In Iraq, the Project and Contracting office – where I was Chief of Staff -- established a series of Civil Military Operations Centers (CMOC) throughout Iraq, manned and operated by their security contractor. Some of these CMOCs are “outside the wire” – that is, not on a military compound. There are no uniformed military present in these CMOCs, and HROs, or their own security contractors, visit these centers to exchange critical information that affect their operations, and enable coalition forces to maintain visibility over HRO activity – with the ability to offer back up support if needed. At other locations, the PCO security contractor sent its own security liaison teams to HRO sites. Again, the low profile of these teams enables these visits where the presence of uniformed military could compromise the operations of the HRO.

### **OTHER CAPABILITIES AND LIMITATIONS**

Perhaps the most important capability PMCs bring to the table is adaptability. Most PMCs are able to tailor themselves for the specific mission requirements, and do this rapidly, with little overhead or massive support structures. They can do this because many of PMCs operate as virtual companies. Instead of having a large staff and huge payroll, they maintain a rolodex of people who have a wide variety of skills and who might be available on an “on call” basis. The same holds for equipment. These companies do not maintain a large inventory of military supplies – which may be legally restrictive in their home countries and difficult to deploy. Instead, they know where they can quickly obtain necessary equipment, and have it delivered, often by commercial means, shortly after their advance party arrives in country. At the end of the contract they transfer the property to their employers or otherwise dispose of it according to the terms of their contract.

Despite their capabilities, PMCs have some serious limitations when compared to regular military forces. To state the obvious, PMCs are not regular military forces. In most cases,

anti-mercenary agreements prohibit PMCs from participating in direct combat operations. This would include integrating them with military forces as part of a perimeter defense. Instead they are limited to providing personal protection to individuals under their charge and to protect specific facilities. Even within the legal restrictions to security operations, PMCs are practically limited in the type of threat they can defend against. Generally, PMCs are limited to providing protection against what NATO doctrine describes as a Level 1 Threat -- individual terrorists or a light infantry threat of less than platoon size: roughly 30 hostiles. Some attacks against logistics convoys in Iraq exceed that size. The PSCs protecting these convoys have prevailed only due to timely arrival of military quick reaction forces, to include helicopter gunship support. There have been PMCs in the past that were able to mount and sustain major combat operations at battle group strength, such as Executive Outcomes, a South African company that engaged in contracted combat operations on behalf of legitimate governments in Sub-Saharan Africa.. However, Executive Outcomes and other such companies have since gone out of business and similar capabilities are not likely to be sought out in the near future.

## RISKS

However useful their capabilities, even with their limitations, PMCs also present real risk. Without understanding, and mitigating these risks, the use of PMCs can quickly move from being an enabler of relief and reconstruction to becoming a source of mission failure or disaster. Three of these risks have a direct impact on the Principles of MOOTW described earlier.

## LEGITIMACY

There is no getting around it. PMCs have a reputation problem. In the popular mind, they are mercenaries: one of a kind with Frederick Forsyth's "Dogs of War." Even more recent activities of recognized -- that is, non-mercenary -- PMCs have had their share of scandal and sociopathic events. For example: In Bosnia one PMC, a division of a large US corporation, was charged with running a prostitution ring. Later, in Kosovo, the same company was charged with white slavery, to include selling pre-adolescent girls. In central Asia, a US based PMC was officially rebuked by the Department of State for "overzealous and insensitive conduct" which included slapping a minister of the host nation government. At the time this is written, yet another company was under investigation for its role in prisoner abuse and possible torture.

Less blatant are violations of the laws of the host nation or the regulations of the coalition governing force that do not directly harm individuals, but promote the perception of recklessness and disregard for legitimate authority. One example is the use of equipment or weapons prohibited to PMCs or PSCs by the governing authority. Generally, this refers to crew served weapons such as heavy machine guns, gun trucks, or area-effect weapons such as fragmentation hand grenades, and ant-tank rockets (RPGs). PSCs in Iraq have been admonished for violations of traffic laws -- and basic common sense in driving. Although speed is a Protective Security Detail's best defense, blatant disregard for other traffic and asserting right of way by pointing automatic weapons at the local citizenry is not the way to

win the hearts and minds of the people – or promote the cause of legitimacy for the coalition and the new national government.

Past scandal aside, the very presence of PMCs can undermine the legitimacy of a nascent or struggling government. PMCs are often used as a bridge between main combat forces and the future capability of a local government to provide security, law, and order. As a result every time a PMC element is seen by the public can be a reminder of the impotence of their own government, of the inability of that government to provide basic needs. Countering this perception is critical to promoting the legitimacy of the government we are assisting.

## SECURITY

PMCs, improperly managed, present a security risk. Many PMCs hire local nationals. This offers opportunities to acquire intimate knowledge of the area and to make direct and personal contact with the local population. It is also substantially cheaper than hiring experienced personnel from Western countries. However, it also offers the opportunity for the enemy to plant active operatives or persons sympathetic to the enemy cause in our security structure. In many countries, it may not be possible to conduct an effective background check of prospective employees. There may be no records from the previous (or current) government and what records exist may be suspect. Therefore, a clean records check is no guarantee of a crime-free past. Even where such background checks are possible and reliable, it may not be enough. The most thoroughly screened employees may have outside pressure put on them to provide aid and assistance to the enemy. In Iraq, the Project and Contracting Office five local national guards were kidnapped and murdered. We knew that some information had been compromised, as the kidnapping of some led directly to the kidnapping of at least one of the others.

## UNITY OF EFFORT

The conditions under which PMCs are employed do not often lend themselves to unity of effort. In Iraq, each contractor under a Coalition reconstruction contract must provide for its own security. More often than not, this is done by subcontracting with a PSC. In coalition operations, the various sending states may each contract with their own PMCs using different legal restrictions or mission sets. The host nation may hire PMCs for its own purposes, with different objectives and rules of engagement than those contracted by the sending states. PMC command, control, communications, and computers may not be compatible with military systems – nor may military commanders wish PMCs to have complete interconnectivity with military C<sup>4</sup>. Finally, PMCs are commercial concerns, inherently in competition with one another. This makes them disinclined to share information that they can sell, or that could help a business competitor.

Beyond issues that directly tie to the Principles of MOOTW, there are other risks and limitations associated with this unique form of contractor support. These include service and support (logistics), training and standardization, legal issues, and commercial factors.

## LOGISTICS

PMCs are not military organizations, and they do not usually come with the logistical support that national military contingents provide for their forces. The lean nature of PMCs, which makes them flexible and deployable, also makes them dependent on their employer for most classes of supply, including food, fuel, vehicle maintenance, casualty evacuation and major medical support. A contract can require the PMC to provide for itself in these areas, but it will cost more. A lot more. Weapons and ammunition may also fall under this logistical support. Some contracts currently in effect specify that PMC weapons are to be government owned. Other contracts merely specify that the weapons and ammunition must be U.S. Government “approved.” In the first case, the contracting officer must consider how the government will maintain accountability for such weapons, from purchase through disposal at the end of the contract. Property disposal must preclude these weapons being transferred outside of the U.S. government<sup>viii</sup>. In the second case planners and contracting officers must consider how the contractor will get his weapons into and out of the country without violating national law or international treaty. Equipment deliveries may be held up for political or legal reasons.

More than one PSC in Iraq has had to delay full operational capability because materiel they ordered ran afoul of one arms export control or another. The Defense Trade Controls office of the US State Department provides oversight of the process for contractors acquiring weapons, ammunition, and other combat related materiel from US sources. To date, this office has been very supportive of those companies operating in support of US Government contracts. However, many contractors prefer weapons and equipment from other countries. Such countries – or other countries the materiel may have to pass through to get to the contingency area – may not be as helpful, or may be deliberately obstructive. The contracting agency cannot merely wash their hands of this issue, believing it the contractor’s responsibility alone. A contractor’s inability to accomplish its mission may critically affect the ability of the military force or HRO to accomplish *its* mission.

## TRAINING AND STANDARDIZATION

Unlike a military organization, PMCs do not have standard tactics, techniques, and procedures. Some PMC procedures may not be compatible with U.S., NATO, or coalition procedures, and it is unlikely that their procedures are compatible with those of other PMCs operating in the same area. Company procedures may be, and probably will be considered proprietary information. As such, PMCs may be unwilling to share this information with other PMCs who, after all, are their commercial competitors. Industry organizations, such as the International Peace Operations Association have developed draft training standards, but these fall short of the tactics techniques and procedures that provide standardization in regular military establishments<sup>ix</sup>. They are also voluntary, even among the member companies of the IPOA.

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## COMMERCIAL AND LEGAL CONSIDERATIONS

PMCs are, in the end, commercial corporate entities. In, what is perhaps the most important distinction between PMCs and military organizations, they are subject to commercial, rather than military law. They may be willing to accept termination fees and loss of future contracts instead of accepting continued risk in support of their present contract. The most vexing problem, however, may be a scrupulous insistence on the specific terms of their contract, rather than exercising the flexibility and initiative required in a combat zone. Other commercial law may also come into play. The host nation may have specific laws and regulations for any company operating in that country. These laws could restrict or prohibit the operations you would like a PMC to perform.

No matter what we do, we must expect that PMCs will be referred to as mercenary forces. “Mercenary” is an inflammatory term guaranteed to stir emotion and sell newspapers. Despite my earlier quote about mercenaries and their lawyers, planners should be very careful to plan for employing PMCs in ways that do not violate international law. An action that crosses that line could negate any other law or agreement enabling the operations of legitimate PMCs and lead to arrest, expulsion, or imprisonment of PMC employees. Beyond these international agreements, there are national laws that must be considered when planning the use of PMCs. Some countries, notably South Africa, have anti-mercenary laws that include prohibitions against providing security for participants in hostilities.<sup>x</sup> This adds a layer of complexity to the issue. As an example, we might use a PMC to provide a protective security detail for Department of Defense officials during contingency operations. If that PMC hires a citizen of South Africa as a member of that PSD, we may be indirectly aiding in the commission of a criminal act under the laws of a recognized and sovereign State. PMCs employees are civilians, and the immunity from civil legal proceedings enjoyed by military forces on contingency operations does not usually apply to private contractors.

## RISK MANAGEMENT

These are some of the risks that must be considered when planning for the use of PMCs. Any one of them can end up in disaster for the contingency force or HRO. However, by recognizing that these risks exist, we can manage them, and avoid turning a potential asset into a serious liability. Once again, the Principles of MOOTW serve as a useful construct for describing potential techniques for risk mitigation. Accountability and the development of – and adherence to – industry standards are risk mitigation techniques that specifically address the commercial nature of PMCs.

## OBJECTIVE

The most important risk mitigation technique is detailed planning. This planning focuses on a clearly defined, decisive, and attainable objective. In assessing the security situation that might lead to the employment of PMC or other security elements, we need to clearly define what success is. What is it we are trying to accomplish? How can we measure it? How do we know that we have achieved the effect necessary to accomplish our aim? Then define the

obstacles to success and what tools do you have to overcome those obstacles? These possible tools should include all aspects of national power (diplomatic, informational, military, and economic) from both the private and public sector reasonably available to the planner. These tools will include PMCs as well as other contractor support. If, after considering the potential and risks, you decide to use a PMC as one of those tools, determine what, specifically, you want the PMC to do, and to what standard. To the maximum extent possible, quantify these intended results. Finally,, determine what support that resource needs to accomplish the tasks you have set out for it. The use of PMCs, like the use of the regular military forces, must not be open ended. Very early in the planning process, planners should specifically identify under what circumstances the need for PMCs will end, and then work to achieve that end.

## LEGITIMACY

As described above, PMCs can present a risk to Legitimacy. However, there are many ways that employment of PMCs can move from being a risk to being an enabler. To do this, PMCs must operate within an established and recognized rule-of-law framework. If such a framework does not already exist, we can and should encourage and work with the legitimate government to develop laws and administrative policies covering PMCs. This is properly the domain of the US State Department, but HROs may engage these governments directly where the United States or the broader international community is unwilling or unable to do so. In Iraq, many of the PSCs organized to form the “Private Security Company Association of Iraq.” This association is actually working with the Iraqi Ministry of Interior on these regulatory issues.

The campaign plan for a complex contingency should include PMCs as part of the command information campaign. Elements of this strategic communications should highlight that PMCs are working with the approval of the local government to support that government’s security campaign. This effort should work with the local government’s own public information system stressing that the PMCs adhere to the laws of the host nation. PMCs themselves should overtly operate in accordance with those laws and agreements. Where there is a legitimate government in power, PMCs should require approval from that government to operate. This could include registration programs and should include the authority of the government to deny or revoke the operating privileges of any PMC.<sup>xi</sup> When exercised, that action itself should be promoted as an act of due process, respecting the rights of corporate entities and the interests of the people of the country. The host nation government might enter into contracts of its own with PMCs that also hold contracts with coalition military forces. This would add a perception of that particular PMC – or PMCs in general – as being an agent of the legitimate government as well as of other coalition partners.

Under certain circumstances, PMCs under contract with the host nation could even be granted special commissions or enlistments under the local government. This would serve several purposes, enhancing both the public perception and actual control of the local government over PMC operations. Such arrangements have been made in the past with other host nations employing PMCs in Africa and the Pacific.<sup>xiii</sup> This concept has the added advantage of being a means to avoid violating anti-mercenary legislation if it is intended, or probable, that PMC employees will be involved in direct combat. The PMC Civil Affairs program described earlier is another very effective tool to lend legitimacy to PMC operations

as well as the host nation government. Properly executed, these are true “hearts and minds” operations that help to local populace while helping the image of the PMC and the overall relief effort.

## SECURITY

Proper screening of PMC employees is absolutely critical. This is true for all employees, but adequate screening – or vetting – of local hires may be particularly problematic. In many cases, such as in Iraq and Afghanistan, there are no reliable police records to be used to assist such screening. Careful, thorough, and professional interview techniques are a must. For the company that worked for me in Iraq, I made my interpreter available to conduct these interviews. He was an Iraqi-born American, and very familiar with local culture and custom. He previously served with a US intelligence service as an interviewer, which provided him with the experience and skills to be particularly effective. Personnel like him are not generally available, but such interview techniques were invaluable – and eye opening. Even the most effective screening process is inadequate if it is not repeated at specific time throughout the term of employment. This is important to identify employees who may be subject to pressures from hostile parties.

## UNITY OF EFFORT

To achieve Unity of Effort with PMCs, commanders and staff planners must establish mechanisms to enable and encourage cooperation and coordination among PMCs and with the military forces. The Private Security Company Association of Iraq, mentioned previously, was established for this purpose. It consists of a steering committee coupled with a general council open to all such contractors operating in the country. These councils give PMCs the opportunity to work out issues among themselves. The International Peace Operations Association is also active in Iraq and elsewhere. It too works to develop an exchange of ideas and promotes common tactics, techniques and procedures for security operations.

In developing contracts with PMCs, contracting officers should require cooperation with other PMCs, exchange of information, and the requirement to comply with the directives of the competent authorities – for example, the military command structure in a complex contingency. Contracts should also specify PMCs to use open architecture communications and information systems that are compatible with one another or can feed information to – and receive information from – a common source. The Joint Deployment Logistics Model (JDLM) is one tool that can meet this need, and is presently employed for that purpose in Iraq. Contracts could also specify a certain level of standardization in tactics, techniques, and procedures. The specific detail of this standardization is open to some debate. Statutory provisions allowing, the Defense Department should consider providing assistance to PMC industry representatives in developing these standards. Commonality will benefit security operations in future complex contingencies. In the near term, however, contracting officers should give serious consideration to requiring adherence to unclassified tactical standard operating procedures in effect for the command or area of operations where the PMC will function.

The Reconstruction Operations Center and the network of contractor run CMOCs have already been mentioned. These centers enable situational awareness between PMCs and military forces and a common relevant operating picture among the various contractors. This C<sup>2</sup> network is closely integrated with military operations centers — sometimes co-located with them. Outside of Iraq, Rear Area Combat Centers (RAOC) and Civil Military Operations Centers (CMOC) can provide excellent venues for this linkage and oversight.

## ACCOUNTABILITY

The fundamental perceived difference between government and contractor support of any kind – at least in a democracy – is the issue of accountability. For the military, it is the codes, rules, and regulations that make the military unique. The military is accountable to itself under its own disciplinary code and to its government and people. Military virtues such as duty, honor, and selfless service to the nation are other tools of accountability not *necessarily* present in a PMC or any contractor. However, even regarding the military, as Stephen Ambrose wrote, “the Army couldn’t actually make you do anything – but it could make you wish you had.”<sup>xiii</sup> This is also true for contractors. For a commercial enterprise, the law of the market provides its own measure of accountability. This includes Adam Smith’s iron law of supply and demand.

There are hundreds of PMCs offering their services, and the number of companies is expanding to accommodate the world-wide demand. Companies that do not fulfill the terms of their contracts, that undermine, rather than support concepts like legitimacy and unity of effort, will find that there are other companies ready to take their place. However, these market forces are often not enough to hold other private sector firms accountable to their customers, and PMCs may – in specific incidents – be no better. Just as with other contractors and private sector businesses, commercial law can and must be used to ensure the accountability and conduct of PMCs and their corporate officers – much as military law ensures the good order and discipline of a nation’s soldiery.

## INDUSTRY STANDARDS

The formal establishment of PMC industry standards through legislation is outside the scope this paper. However, it is important to note that various governments, and in particular the United Kingdom, are aggressively exploring the issue, and that the work there may set the standard for the international community. This industry itself is also moving in the direction of self-regulation. The IPOA and PSCA-I are excellent examples of this effort. Planners today, however, cannot wait on international legislation or commonly accepted standards to develop within the industry itself. We need to build standards into the contracting process.

Such standards should include requiring a statement of contractor work history; making it clear that we will only consider companies who have only worked for legitimate governments HROs, or corporations; that we will not accept any company that was involved in activity against a legitimate government; and an absence of criminal history for the corporation, its employees, and its sub-contractors. DOD Handbook 2000.12(H) and AR 190-56 provide good references for standards that already exist in the military. The IPOA has published

standards of its own. We can and should look to these and other commercial standards that are consistent with US Law and military policy. The contract should include clear statements about employee screening, and require the company to work with other PMCs in the area of operations and accept direction from competent military or civil authority.

CPA Memo 17 and CPA Order 17 have the effect of Law under the present Iraqi government. They establish specific standards for PSCs operating in that country. Provisions from that memo could be incorporated into any contract made with any PMC in any contingency area.

## **PROGRAM MANAGEMENT**

Effective program management is the mechanism for implementing and monitoring these risk controls. As described above, requests for Proposal (RFP) should clearly state PMC eligibility requirements. Other specifications must include minimum training requirements, corporate record of performance. Standards of performance should include ethics, standards of conduct, and open and verifiable record keeping. These standards of performance must include reference to national and international law covering the Law of War.

Further provisions must clearly establish military control over PMC operations. This includes command and control linkages, military authority (and limits to that authority), communications, operational reporting, standard operating procedures, and security clearance requirements. As described earlier, the contract must also describe contract termination procedures, provision for loss of accreditation of the PMC by a host nation, and an accountability and audit trail for all equipment used in the performance of the contract.

PMC contracts must include a schedule of delivery. Certain capabilities must be in place by certain times to enable the military operations the contract is intended to support. In-progress reviews and milestones are critical. Both contracting representatives and operational planners must be involved in establishing both these milestones and the in-progress-reviews. Some of the contracts I am familiar with – totaling many millions of dollars – were deficient in this regard.

The best way to ensure that these factors are considered in any PMC contract is to develop standard PMC contract and contract proposal formats: “boilerplate.” Although each contract will be different, such a boilerplate will ensure that the issues described above will find a place in the contracting process, much as an annotated five paragraph field order ensures that factors critical to successful military operations will be addressed by planners. As with any program, the contracting party must itself provide consistent oversight to ensure that the contractor remains in compliance with these provisions, and that any non-compliance is caught at the earliest stages. In this way, corrective action can be initiated before serious consequences develop. From my own experience, I believe it to be vitally important to have a dedicated program manager. If possible, the same program manager should be retained for the entire lifespan of the program, as is the standard for other significant defense programs. This Program Manager must have expertise both in program management and security operations. This continuity may not be possible in all cases, but any break in continuity interjects risks to the program.

## CONCLUSION

Private Military Companies are a logical development in the concept of “contractors on the battlefield.” They provide an economy of force to regular armed forces accomplishing security and training functions. Properly used, they are a bridge between security operations inherent to the decisive combat phase of a complex contingency and the time when the civilian government is able to resume effective domestic security operations. However, the potential of PMCs to make a positive contribution in complex contingencies depends on careful planning and effective risk management, and common understanding of PMC capabilities and limitations by military planners, Humanitarian Relief Organizations and the PMC industry.

## FOOTNOTES

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- <sup>i</sup> The PMC industry includes hundreds of companies, many of which do not even accept that term. Over 60 of these companies are presently active in Iraq, where most are known as Private Security Companies. This is a highly competitive industry (and like most competitive industries they have some really good lawyers). So, in order not to seem like I am promoting one company or cautioning against another, I will not mention any currently existing company by name.
- <sup>ii</sup> *Merriam Webster's Collegiate College Dictionary*, 10<sup>th</sup> Edition (Merriam Webster, Inc. 1997)
- <sup>iii</sup> Convention of the OAU for the Elimination of Mercenarism in Africa, O.A.U. Doc. CM/433/Rev. L. Annex 1 (1972), *entered into force* April 22, 1985. The United States is not a signatory of this or either of the other documents cited.
- <sup>iv</sup> Lt Col Tim Spicer OBE, *An Unorthodox Soldier*, (Edinburgh, U.K., Mainstream Publishing Company (Edinburgh) Ltd. 1999) , p.15
- <sup>v</sup> Peter W. Singer, *Corporate Warriors: The Rise and Ramifications of the Privatized Military Industry* (*International Security*, Vol. 26, No. 3, Winter 2001/2002.) Mr. Singer prefers the term “Privatized Military Firm” in lieu of “Private Military Company.” P.1
- <sup>vi</sup> U.S. Defense Dept., Joint Doctrine for Military Operations Other Than War, JP 3-07 (Washington, D.C.: Joint Staff, 16 June 1995)
- <sup>vii</sup> Private armies, such as the British East India Company and the Dutch India Company are special cases. In units such as the French Foreign Legion and the Spanish Foreign Legion, the individual soldiers may be mercenaries, according to the definition above, but the units themselves are regular formations of the standing national army.
- <sup>viii</sup> Theoretically, such weapons could be transferred from the US Government to the host country's armed forces – or that of another friendly nation, under a security assistance program. Conversation with Mr. Michael Dixon, Directing Manager, Defense Trade Controls, US State Department, 25 July 2005
- <sup>ix</sup> <http://ipoaonline-iraq.org/archives/IPOA%20file.pdf> (current as of 25 July 2005)
- <sup>x</sup> The Constitution of the Republic of South Africa, art. 198(b). Regulation of the Foreign Military Assistance Act, Act. no.15, 1998, *Government Gazette*, no.18912, (May 20, 1998)
- <sup>xi</sup> In Iraq, these provisions are included in CPA Memorandum 17 and CPA Order 17, published with the effect of law under the Iraqi Transitional Administrative Law (TAL).
- <sup>xii</sup> Lt Col Tim Spicer OBE, *An Unorthodox Soldier*, p.53

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<sup>xiii</sup> Steven Ambrose, *Band of Brothers: E Company, 506<sup>th</sup> Regiment, 101<sup>st</sup> Airborne from Normandy to Hitler's Eagle's Nest* (New York, New York, Touchstone, 1999)